

DEC 22 2004



U.S. Customs and
Border Protection

PER-2-LER

██████████ 6
CBP Officer
New York/ Newark Area

Dear Mr. ██████████

This letter is to notify you of my decision to terminate you from your position of CBP Officer, GS-1895-05, and from U.S. Customs and Border Protection (CBP), effective December ██████████, 2004. You were hired as a CBP Officer on a career-conditional appointment on December ██████████, 2003, subject to a one-year probationary period. This probationary period is the final and highly significant step in determining whether an employee should be retained in his/her position. It provides the final and indispensable test of an appointee's actual performance and conduct. When performance or conduct deficiencies are observed, 5 C.F.R. § 315.804 provides that a probationary employee may be terminated at any time prior to the completion of the probationary period. The specific facts and circumstances which led to the decision to terminate your employment are as follows:

A petition was filed by Ms. ██████████ on August ██████████, 2004, with the Miami-Dade Circuit Court, which alleged that you tried to strangle her on July ██████████, 2004. Consequently, on September ██████████, 2004, a Temporary Injunction for Protection Against Domestic Violence with Minor Children was issued against you by the Miami Dade Circuit Court, Domestic Violence Division. By sworn affidavit dated November ██████████, 2004, you admitted that during an argument with Ms. ██████████ you grabbed her by her neck.

As a CBP Officer, you are responsible for enforcing a wide variety of laws. As such, you hold a position of trust and responsibility and you must conform to a higher standard of conduct than employees who are not responsible for law enforcement. Furthermore, in order to accomplish its mission, CBP must be able to trust and depend on its employees to conduct themselves in a reasonable and appropriate manner at all times. Your lack of self-control in this situation is incompatible with the duties and responsibilities of a CBP Officer and cannot be tolerated. Accordingly, based on my



consideration of the foregoing evidence, it is my conclusion that you have failed to demonstrate the conduct required for continued employment with CBP. Therefore, in accordance with 5 C.F.R. § 315.804, your employment with CBP will be terminated at the close of business on Wednesday, December 1, 2004. An exception to Standard Form 50, the Employee Transcript, documenting your termination, will be forwarded to you at a later date.

Pursuant to 5 C.F.R. § 315.806 (b), you may appeal this termination to the Merit Systems Protection Board (MSPB) only if you believe the action was based on discrimination because of your marital status or for partisan political reasons. If you believe that your termination was based upon discrimination because of race, color, religion, sex or national origin or because of age or handicapping or disabling condition, you may appeal such to the MSPB, but only if such alleged discrimination is raised in addition to allegations of discrimination based upon marital status or partisan politics. Your appeal must be filed in writing no later than 30 days after the effective date of the action being appealed, or 30 days after the date of receipt of the agency's decision, whichever is later. A copy of the relevant Merit Systems Protection Board regulations and appeal form is enclosed. Your appeal must be delivered in person, by facsimile, by mail or by commercial overnight delivery to:

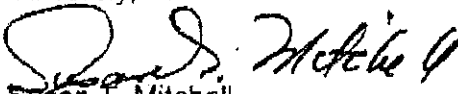
Chief Administrative Judge
Merit Systems Protection Board
26 Federal Plaza, Room 3137A
New York, New York 10278

If you file your appeal by facsimile it should be sent to (212) 264-1417. You may also prepare and file an appeal electronically by using e-Appeal, the Board's Internet filing procedure, at <http://e-appeal.mspb.gov>.



If you feel this action is due to discrimination against you on the basis of race, color, religion, sex, national origin, age or handicap you may also initiate a discrimination complaint by seeking pre-complaint counseling from an EEO Counselor within 45 days of the effective date of this action. If you wish to pursue such an action you should contact Mr. Lenard Angevine at (646) 733-3234.

Please sign, date and return the accompanying copy of this letter so that it may serve as acknowledgement of your receipt of the original.

Sincerely,


Susan T. Mitchell
Director
Field Operations, New York

Enclosures

Received this letter
for 

12-1-04